

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

United States of America

v.

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed on or After November 1, 1987)

Tomas Benacio-Nicasio

No. 08-15962-001M-SD

Citizen of Mexico

Brenda Acosta Sandoval (AFPD)
Attorney for Defendant

USM#: 76378-208

DOB: 1989

ICE#: A95 753 324

THE DEFENDANT ENTERED A PLEA OF guilty on 7/9/2008 to Count ONE of the Complaint.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count ONE of the Complaint.

IT IS THE JUDGMENT OF THE COURT THAT the defendant is hereby committed to the custody of the Bureau of Prisons for a term of FIFTEEN (15) DAYS on Count ONE, with credit for time served.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk the following total criminal monetary penalties:

SPECIAL ASSESSMENT: \$Remitted

FINE: \$

RESTITUTION: \$

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of \$Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count ONE of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

IT IS FURTHER ORDERED that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

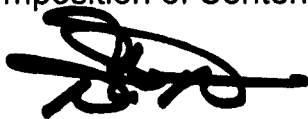
The Court orders commitment to the custody of the Bureau of Prisons.
The defendant is remanded to the custody of the United States Marshal.

08-15962-001M-SD

Page 2 of 2

USA vs. Tomas Benacio-Nicasio

Date of Imposition of Sentence: **Wednesday, July 9, 2008**



Date 7/9/2008

DAVID K. DUNCAN, United States Magistrate Judge

RETURN

I have executed this Judgment as follows: _____

Defendant delivered on _____ to _____ at _____, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

United States Marshal
08-15962-001M-SD -

By: _____
Deputy Marshal

DATE: 7/9/2008 CASE NUMBER: 08-15962-001M-SD

PLEA/SENTENCING MINUTES

USA vs. Tomas Benacio-Nicasio

U.S. MAGISTRATE JUDGE: DAVID K. DUNCAN Judge #: 70BL

U.S. Attorney _____ INTERPRETER REQ'D Ricardo Gonzalez

LANGUAGE: Spanish

Attorney for Defendant Brenda Acosta Sandoval (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA _____ ☐ Complaint Filed ☐ Appointment of counsel hearing held
☐ Financial Afdvt taken ☐ No Financial Afdvt taken ☐ Financial Afdvt sealed
☐ Initial Appearance

DETENTION HEARING: ☐ Held ☐ Cont'd ☐ Reset ☐ UA

Set for: before:

- ☐ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at \$ _____
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

PLEA HEARING: ☒ Held ☐ Cont'd ☐ Reset

Set for: before:

- ☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed _____ ☐ Complaint filed _____
☒ Defendant sworn and examined by the Court ☒ Plea of Guilty ☐ Not Guilty ☒ Entered to Counts ONE
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☒ Plea of Guilty entered as to Ct(s) ONE of the ☐ Information ☐ Indictment ☒ Complaint
☒ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because _____
☐ PSI ORDERED ☐ EXPEDITED ☒ PSI waived ☐ Time waived for passage of sentence
☐ Continued for sentence to ____ before _____
☐ To be dismissed upon entry of the judgment, Ct(s) ____
☒ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

SENTENCING:

- ☒ Defendant committed to Bureau of Prisons for a period of 15 days ☐ Probation/Supervised Release for _____
☒ Special Assessment \$ REMITTED ☐ Fine \$ _____ ☐ Restitution \$ _____

Other: _____

RECORDED: CS

BY: Angela J. Tuohy, Deputy Clerk

DATE: 7/7/08 CASE NUMBER: 08-15962M-001

USA vs. Tomas Benacio-Nicasio

U.S. MAGISTRATE JUDGE: MARK W. REEVES FOR JAY R. IRWIN #: 70BK

A.U.S. Attorney _____ INTERPRETER Ricardo Gonzalez
LANGUAGE Spanish

Attorney for Defendant Brenda Acosta Sandoval (AFPD)

MATERIAL WITNESS(es): _____

MATERIAL WITNESS(es) state true name(s) to be: _____

Attorney for Material Witness(es): _____

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 7/2/08 ☒ Initial Appearance ☒ Appointment of counsel hearing held
☐ Financial Afdvt taken ☒ Defendant Sworn ☐ Financial Afdvt sealed
☐ Rule 5(c)(3) ☐ Defendant states true name to be _____. Further proceedings ORDERED
in Defendant's true name.

DETENTION HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
Set for:
Before:
☒ Defendant ordered temporarily detained in the
custody of the United States Marshal
☐ Defendant ordered released _____
☐ Defendant continued detained pending trial
☐ Flight risk ☐ Danger

IDENTITY HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
☐ Waived
Set for:
Before:
☐ Warrant of removal issued.

PRELIMINARY HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
☐ Waived
Set for:
Before:
☐ Probable cause found ☐ Dismissed
☐ Held to answer before District Court

STATUS HEARING: re: _____

☐ Held ☐ Con't ☐ Reset
Set for:
Before:

Other: Plea and possible sentence hearing is set for 7/9/08 at 10:30 am before Magistrate Judge Duncan (Yuma).

Recorded by Courtsmart
BY: Angela J. Tuohy
Deputy Clerk

United States District Court 7/2

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

Tomas BENACIO-Nicasio

Citizen of Mexico

YOB: 1989

095753324

Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 08-15962M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I

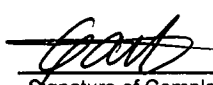
That on or about June 30, 2008, near Andrade, California in the Southern District of California, Defendant Tomas BENACIO-Nicasio, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers of the United States of America, in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

July 7, 2008

at


Signature of Complainant

Carlos Diaz

Senior Patrol Agent

City and State

Yuma, Arizona

Jay R. Irwin, U.S. Magistrate

Name & Title of Judicial Officer


Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Tomas BENACIO-Nicasio

Dependents: None

IMMIGRATION HISTORY: The Defendant is an illegal alien.

CRIMINAL HISTORY: None found.

<u>DATE LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
07/01/04 San Bernardino, CA	Harm/Seduce Minor	None listed


Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Winterhaven, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented National of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on June 30, 2008.

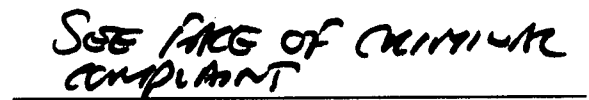
Charges: 8 USC§1325 (Misdemeanor)



Signature of Complainant

Sworn to before me and subscribed in my presence,

July 7, 2008
Date



Signature of Judicial Officer

Probable Cause Statement

I, Senior Patrol Agent Carlos Diaz, declare under penalty of perjury, the following is true and correct:

Defendant: Tomas BENACIO-Nicasio

Dependents: None

IMMIGRATION HISTORY: The Defendant is an illegal alien.

CRIMINAL HISTORY: None found.

<u>DATE</u>	<u>LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
07/01/04	San Bernardino, CA	Harm/Seduce Minor	None listed

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Winterhaven, California.

The Defendant was questioned as to his citizenship and immigration status. Agents determined that the Defendant is an undocumented National of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on June 30, 2008.

Charges: 8 USC§1325 (Misdemeanor)

Executed on: Date July 4, 2008 Time: 6:53 am

Signed: [Signature] Senior Patrol Agent

Finding of Probable Cause

On the basis of the facts presented in the foregoing Probable Cause Statement, consisting of one page(s), I find probable cause to believe that the defendant(s) named therein committed the offense on June 30, 2008 in violation of Title 8, United States Code, Section 1325.

Finding made on: Date July 4, 2008 Time 12:30 PM

Signed: [Signature] United States Magistrate Judge